

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

TELDIA HAYWOOD, ROBERT HAYWOOD,
JOANNA BOWLING, RUSSELL ROBERSON,
and CAROLYN EDWARDS,

Plaintiffs,

v.

CIVIL ACTION NO. 1:19-00264

CARETTA MINERALS, LLC,
CNX GAS COMPANY LLC, and
UNKNOWN DEFENDANTS,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court are two motions to withdraw by plaintiffs' counsel Robert H. Carlton, (ECF Nos. 36, 40), and defendants' joint motion to dismiss plaintiffs' claims with prejudice for failure to file an amended complaint within the deadline imposed by this court's earlier orders. (ECF No. 33.) A hearing was held on these motions on June 23, 2020.

At the hearing, the court heard from Mr. Carlton and from plaintiffs regarding Mr. Carlton's motion to withdraw. Mr. Carlton explained why he is seeking to withdraw and why he did not initially comply with the court's orders. Plaintiffs did not have an objection to his withdrawal. For the reasons put on the record at the hearing, and for the reasons included in Mr. Carlton's motions to withdraw, the court found that good cause

existed and **GRANTED** Mr. Carlton's motions to withdraw. (ECF Nos. 36, 40.)

Following its decision granting Mr. Carlton's withdrawal, the court instructed plaintiffs that they may try to hire another attorney to represent them, or that they may represent themselves pro se. The court explained the difficulties of pro se representation. The court then **ORDERED** that the court be given notice by July 7, 2020 of whether plaintiffs have found substitute counsel or intend to represent themselves. By July 7, 2020, plaintiffs must either file a written notice stating that they intend to represent themselves pro se, or a notice of appearance by substitute counsel must be filed with the court by that date. The court stated that if no notice is filed by July 7, 2020, the case would be dismissed with prejudice.

The court then heard argument on defendants' motion to dismiss with prejudice. Defendants argued, as in their motion, that dismissal with prejudice is proper because plaintiffs did not amend the Complaint to fix its deficiencies within the deadline imposed by the court. Defendants argued that, alternatively, all claims by plaintiffs other than Ms. Haywood should be dismissed because only she filed a motion requesting an extension of time. Additionally, defendants objected to the

court's extension of time for plaintiffs to find counsel and file an amended complaint.

The court ordered that defendants' motion to dismiss with prejudice, (ECF No. 33), be **HELD in abeyance** pending plaintiffs' filing of notice on the status of their representation. The court found that it is in the interests of justice that plaintiffs be given additional time to find substitute counsel. The court further found that Ms. Haywood was speaking on behalf of all plaintiffs when she filed her motion for an extension of time, and thus explained that the court would not dismiss the claims of the non-Ms. Haywood-plaintiffs on this alternative ground.

The court stated that it would enter a new deadline for plaintiffs to file an amended complaint, if necessary, once the court received plaintiffs' notice of their status of representation.

The Clerk is directed to send copies of this Memorandum Opinion and Order to all counsel of record and all unrepresented parties, which includes all plaintiffs.

IT IS SO ORDERED this 24th day of June, 2020.

Enter:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge